THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO.3300 OF 2006

DATED: 23-02-2006

BETWEEN:

Tasleem Bee
W/o. Syed Ahmed Shah Quadri … Petitioner

and

The District Collector,

Medak District and two others … Respondents

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO.3300 OF 2006

ORDER:

Petitioner filed this writ petition seeking to declare the proceedings of the 2nd respondent in D1/3255/2001, dated 16-10-2005 as illegal and contrary to the provisions of the A.P. Escheats and Bona Vacantia Act, 1974(for short 'the Act') and for consequential direction to the respondents not to interfere with her possession of an extent of Ac.3.00 in survey No.71 of Hothi (B) village, Zaheerabad Mandal, Medak District without following the procedure prescribed under law.

Heard the learned counsel appearing for the petitioner and the learned Government Pleader for the respondents and perused the material on record.

The petitioner questions the order of the Joint Collector, Medak District made under the provisions of the Act and the rules made there under. The said order reads as follows:

GOVERNMENT OF ANDHRA PRADESH

PROCEEDINGS OF THE JOINT COLLECTOR, MEDAK AT SANGA REDDY

Present: Dr. Vani Mohan, I.A.S.,

Proc.No.D1/3255/2001 Dated: 16-10-2005

Sub: Lands – Medak District Zahirabad Mandal Hothi (B) Village Sy.No.71 extent 9.26 acres. Out of which an extent of Ac.6.26 Guntas to take action U/s.8 of the A.P. Escheat and Bonavacantia Act, 1974 – Orders – Issued.

Read: M.R.O./Zahirabad Lr.No.B1789/2001, dated 13-06-2005.

ORDER:

In the circumstances reported by the Mandal Revenue Officer, Zahirabad vide reference read above, permission is hereby accorded to the Mandal Revenue Officer, Zahirabad to take over the possession of the agricultural Land admeasuring Ac.6.26 guntas in Sy.No.71 out of extent Ac.9.26 guntas at Hothi (B) Village of Zahirabad Mandal, Medak DistrictU/s.9 of the A.P. Escheat And Bonavacantia Act 1974, and he is also permitted to lease out the land on Eksala auction as provided in A.P. Escheat and Bonavacantia Act 1974 and rules 1975 at once and intimate the date of taking over possession of the land together with C.C. of panchanama etc., and also maintain the account of lease amount.

(This has the approval of Joint Collector, Medak)

By Order

Sd/- District Revenue Officer

Medak at Sanga Reddy

A perusal of the said order goes to show that no enquiry has been done and no notice has been issued giving reasonable opportunity to the petitioner before passing the said order. It is the case of the petitioner that an enquiry relating to Escheats and Bona Vacantia Act has to be made by the local officer and in the instant case, no enquiry has been made whether the land in possession of the petitioner is escheat or bona vacantia land and without conducting enquiry as contemplated under Section 7 of the Act basing on the report of the Mandal Revenue Officer only, the order has been passed. Section 8 goes to show that after conducting enquiry and if the local officer found that the said land is a escheat or bona vacantia land and is in possession of the petitioner or others claiming the said property, then only, the local officer may have to institute a suit for recovery of the said amount as contemplated under Section 8 and declare that the said property is a escheat or bona vacantia and also entitled to obtain possession thereof. After obtaining the possession, it is open for the local officer to dispose of the same under the provisions of the said Act. In the instant case, without following any procedure, the impugned order has been passed for taking possession of the said agricultural land.

Having regard to the facts and circumstances of the case, the impugned order is set aside with a liberty to the respondents to follow due procedure prescribed under the law and take appropriate action in accordance with law.

Writ petition is accordingly disposed of. No order as to costs.

_____

V. ESWARAIAH, J.

Dated: 23-02-2006

rns